Public Laws: 103rd Congress / 1st Session / Senate Bills / 1993 / File 2

103D CONGRESS
1ST SESSION

S. 726

To amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net health care facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 3), 1993

Mr. DASCHLE (for himself, Mr. BREAUX, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net health care facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Health Safety Net Infrastructure Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a small handful of urban and rural health care facilities in America today serve as an essential health safety net for many millions of individuals in underserved inner cities and rural areas;

(2) these safety net health care facilities bear a disproportionate share of the burden of providing care to the Nation's 35,000,000 uninsured, as well as serving as the community hospital and family doctor to millions of other low-income urban and rural residents who are covered by medicaid, medicare, and often inadequate private insurance;

(3) these health care facilities are often also a community's only source of essential, specialized health services, including primary care, emergency and trauma care, burn services, high-risk pregnancy services, and neonatal intensive care;

(4) due to their geographic location and the lack of any other facilities or services (including physicians) in many inner city and rural communities, these safety net health care facilities will continue to play an essential role in the health system even following the enactment of national health system reform;

(5) this safety net threatens to unravel due to the capital infrastructure crisis which these health care facilities face;

(6) the buildings and equipment in which these health care facilities rely to provide high quality medical care have been allowed to deteriorate seriously and have not been able to keep pace with outpatient delivery services, putting in jeopardy the delivery of quality health services to major portions of the Nation's population;

(7) chronic underinvestment in these health care facilities is evidenced by the fact that the average age of physical plant of urban, public hospitals is nearly 26 years, as compared to a national average of only 7 years for private hospitals;

(8) the financial picture of rural hospitals in particular has been affected by cutbacks in Federal reimbursement payments, a decline in inpatient utilization, increased growth rate in uncompensated care for inpatient care and expanded services, negative margins, and rural economic problems;

(9) small rural hospitals find it increasingly difficult to access inexpensive capital markets to maintain and improve their infrastructure to ensure high quality health care services to citizens in rural areas;

(10) the average capital expenditure for urban public hospitals is $12,600 per bed, as compared to a national average expenditure per bed of $23,500;

(11) traditional methods of financing rebuilding and renovation projects are either not available to these health care facilities, or are increasingly limited due to fiscal pressures on local governments who issue their bonds or to the high costs of issuing revenue bonds in a bond market that is skeptical regarding the local appropriations made to these health care facilities; and

(12) the Federal Government can help alleviate this crisis with carefully targeted and highly leveraged resources for those health care facilities in the greatest need of assistance.

TITLE I—CAPITAL FINANCING ASSISTANCE FOR SAFETY NET HEALTH CARE FACILITIES PROVIDING INDIGENT CARE

SEC. 101. ESTABLISHMENT OF CAPITAL FINANCING ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—CAPITAL FINANCING ASSISTANCE FOR SAFETY NET HEALTH CARE FACILITIES

"Subtitle A—General Provisions

"PAYMENTS TO HEALTH CARE FACILITIES

"SEC. 2101. (a) IN GENERAL.—The Secretary, with the approval of the Health Safety Net Infrastructure Trust Fund Board of Trustees described in section 2104(d) (hereafter in this title referred to as the 'Trust Fund Board'), shall make payments, from amounts in the Health Safety Net Infrastructure Trust Fund established under section 2104(a) (hereafter in this title referred to as the 'Trust Fund'), for capital financing assistance to eligible health care facilities whose applications for assistance have been approved under this title.

"(b) GENERAL ELIGIBILITY REQUIREMENTS FOR ASSISTANCE.—

"(1) ELIGIBLE HEALTH CARE FACILITIES DESCRIBED.—

"(A) IN GENERAL.—A health care facility shall be generally eligible for capital financing assistance under this title if the health care facility—

"(i) receives an additional payment under section 1886(d)(5)(F) and is described in clause (i)(II) or clause (vii)(I) of such section, or is deemed a disproportionate share hospital under a State plan for medical assistance under title XIX on the basis described in section 1923(b)(1);

"(ii) is a hospital which meets the criteria for designation by the Secretary as an essential access community hospital under section 1820(i)(1) or a rural primary care hospital under section 1820(i)(2) (whether or not such hospital is actually designated under such section);

"(iii) is a Federally qualified health center (as defined in section 1905(l)(2)(B));

"(iv) is a hospital which—

"(I) is a sole community provider; or

"(II) has closed within the preceding 12 months;

"(v) is a facility which—

"(I) provides service to ill or injured individuals prior to the trans-

portation of such individuals to a hospital or provides inpatient care to individuals needing such care for a period not longer than 96 hours;

"(II) is located in a county (or equivalent unit of local government) with fewer than 6 residents per square mile or is located more than 35 road miles from the nearest hospital;

"(III) permits a physician assistant or nurse practitioner to admit and treat patients under the supervision of a physician not present in such facility; and

"(IV) has obtained a waiver from the Secretary permitting the facility to participate in the medicare program under title XVIII; or

"(vi) is a hospital that the Secretary otherwise determines to be an appropriate recipient of assistance under this title on the basis of the existence of a patient care operating deficit, a demonstrated inability to secure or repay financing for a qualify-

ing project on reasonable terms, or such other criteria as the Secretary considers appropriate.

"(B) DEVELOPMENT OF CRITERIA.—For purposes of subparagraph (A)(vi), with respect to rural hospitals which are at risk or critical to health care access, the Prospective Payment Review Commission, not later than January 1, 1994, shall develop criteria to assist the Secretary in deciding if such hospitals deserve assistance, after considering, at a minimum, the following factors:

"(i) AT-RISK RURAL HOSPITALS.—In the case of rural hospitals the closure of which within the next year is imminent or the continued operation of which over a 2- to 5-year period is questionable, such factors as the level of health resources available in a community as measured by physician supply, the population base of the area served by the hospital and utilization of services by such population as measured by service area population, and financial indicators predictive of closure.

"(ii) RURAL HOSPITALS CRITICAL TO HEALTH CARE ACCESS.—In the case of rural hospitals which provide access to essential health services within a service area where no other provider of such essential services exists, such factors as the market share of the hospital for an area or population, the number of outpatient visits, the proximity of the next closest provider of such services, and the degree to which the area population is medically underserved.

"(2) OWNERSHIP REQUIREMENTS.—In order to be eligible for assistance under this title, a health care facility (other than a health care facility described in clauses (ii) and (v) of paragraph (1)) must—

"(A) be owned or operated by a unit of State or local government;

"(B) be a quasi-public corporation, defined as a private, nonprofit corporation or public benefit corporation which is formally granted one or more governmental powers by legislative action through (or is otherwise partially funded by) the State legislature, city or county council;

"(C) be a private nonprofit health care facility which has contracted with, or is otherwise funded by, a governmental agency to provide health care services to low income individuals not eligible for assistance under title XVIII or title XIX of this Act, where revenue from such contracts constitute at least 10 percent of the facility's operating revenues over the prior 3 fiscal years; or

"(D) be a nonprofit small rural health care facility (as determined by the Secretary).

"(c) MEETING ADDITIONAL SPECIFIC CRITERIA.—Health care facilities that are generally eligible for assistance under this title under subsection (b) may apply for the specific programs described in this title and must meet any additional criteria for participation in such programs.

"(d) ASSISTANCE AVAILABLE.—Capital financing assistance available under this title shall include loan guarantees, interest rate subsidies, matching loans and direct grants. Health care facilities determined to be generally eligible for assistance under this title may apply for and receive more than one type of assistance under this title.

"APPLICATION FOR ASSISTANCE

"SEC. 2102. (a) IN GENERAL.—No health care facilities may receive assistance for a qualifying project under this title unless the health care facility—

"(1) has filed with the Secretary, in a form and manner specified by the Secretary, with the advice and approval of the Trust Fund Board (as described in section 2104(d)), an application for assistance under this title;

"(2) establishes in its application (for its most recent cost reporting period) that it meets the criteria for general eligibility under this title;

"(3) includes a description of the project, including the community in which it is located, and describes utilization and services characteristics of the project and the health care facility, and the patient population that is to be served;

"(4) describes the extent to which the project will include the financial participation of State and local governments if assistance is granted under this title, and all other sources of financing sought for the project; and

"(5) establishes, to the satisfaction of the Secretary and the Trust Fund Board, that the project meets the additional criteria for each type of capital financing assistance for which it is applying.

"(b) CRITERIA FOR APPROVAL.—The Secretary, with the approval of the Trust Fund Board, shall determine for each application for assistance under this title—

"(1) whether the health care facility meets the general eligibility criteria under section 2101(b);

"(2) whether the health care facility meets the specific eligibility criteria of each type of assistance for which it has applied, including whether the health care facility meets any criteria for priority consideration for the type of assistance for which it has applied;

"(3) whether the capital project for which assistance is being requested is a qualifying project under this title; and

"(4) whether funds are available, pursuant to the limitations of each program, to fully fund the request for assistance.

"(c) PRIORITY OF APPLICATIONS.—In addition to meeting the criteria otherwise described in this title, at the discretion of the Trust Fund Board, the Secretary shall give preference to those applications for qualifying projects that—

"(1)(A) are necessary to bring existing safety net health care facilities into compliance with accreditation standards of fire and life safety, seismic, or other related Federal, State or local regulatory standards;

"(B) improve the provision of essential services such as emergency medical and trauma services, AIDS and infectious disease, perinatal, burn, primary care, and other services which the Trust Fund Board may designate; or

"(C) provide access to otherwise unavailable essential health services to the indigent and other needy persons within the health care facility's territorial area;

"(2) include specific State or local governmental or other non-Federal assurances of financial support if assistance for a qualifying project is granted under this title; and

"(3) are unlikely to be financed without assistance granted under this title.

"(d) SUBMISSION OF APPLICATIONS.—Applications under this title shall be submitted to the Secretary through the Trust Fund Board. If two or more health care facilities join in the project, the application shall be submitted by all participating health care facilities jointly. Such applications shall set forth all of the descriptions, plans, specifications, and assurances as required by this title and contain other such information as the Trust Fund Board shall require.

"(e) OPPORTUNITY FOR APPEAL.—The Trust Fund Board shall afford a health care facility applying for a loan guarantee under this section an opportunity for a hearing if the guarantee is denied.

"(f) APPLICATIONS FOR AMENDMENTS.—Amendment of an approved application shall be subject to approval in the same manner as an original application.

"PUBLIC SERVICE RESPONSIBILITIES

"SEC. 2103. (a) IN GENERAL.—Any health care facility accepting capital financing assistance under this title shall agree—

"(1) to make the services of the facility or portion thereof to be constructed, acquired, or modernized available to all persons; and

"(2) to provide a significant volume of services to persons unable to pay therefore, consistent with other provisions of this Act and the amount of assistance received under this title.

"(b) ENFORCEMENT.—The Director of the Office of Civil Rights of the Department of Health and Human Services shall be given the power to enforce the public service responsibilities described in this section.

"HEALTH SAFETY NET INFRASTRUCTURE TRUST FUND

"SEC. 2104. (a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the Health Safety Net Infrastructure

Trust Fund, consisting of such amounts as may be transferred, appropriated, or credited to such Trust Fund as provided in this title.

"(b) AUTHORIZATION OF APPROPRIATIONS TO TRUST FUND.—There are authorized to be appropriated to the Trust Fund such sums as may be necessary to carry out the purposes of this title.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, pursuant to appropriations Acts, only for making expenditures to carry out the purposes of this title.

"(d) BOARD OF TRUSTEES; COMPOSITION; MEETINGS; DUTIES.—

"(1) IN GENERAL.—There shall be created a Health Safety Net Infrastructure Trust Fund Board of Trustees composed of the Secretary of Health and Human Services, the Secretary of the Treasury, the Assistant Secretary for Health, and the Administrator of the Health Care Financing Administration (all serving in their ex officio capacities), and 5 public members who shall be appointed for 4 year terms by the President, from the following categories—

"(A) one chief health officer from a State;

"(B) one chief executive officer of a health care facility that meets the general eligibility criteria of this title;

"(C) one representative of the financial community; and

"(D) two additional public or consumer representatives.

"(2) DUTIES.—The Board of Trustees shall meet no less than quarterly and shall have the responsibility to approve implementing regulations, to establish criteria, and to recommend and approve expenditures by the Secretary under the programs set forth in this title.

"(3) MANAGING TRUSTEE.—The Secretary of the Treasury shall serve as the Managing Trustee of the Trust Fund, and shall be responsible for the investment of funds. The provisions of subsections (b) through (e) of section 1817 shall apply to the Trust Fund and the Managing Trustee of the Trust Fund in the same manner as they apply to the Federal Hospital Insurance Trust Fund and the Managing Trustee of that Trust Fund.

"ADMINISTRATION

"SEC. 2105. (a) IN GENERAL.—The Administrator of the Health Care Financing Administration shall serve

as Secretary of the Board of Trustees and shall administer the programs under this title.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the funds annually appropriated to the Trust Fund may be available for administration of the Trust Fund or programs under this title.

"Subtitle B—Loan Guarantees

"PROVISION OF LOAN GUARANTEES TO SAFETY NET HEALTH CARE FACILITIES

"SEC. 2110. (a) IN GENERAL.—The Safety Net Infrastructure Trust Fund will provide a Federal guarantee of loan repayment, including guarantees of repayment of refinancing loans, to non-Federal lenders making loans to eligible health care facilities for health care facility replacement (either by construction or acquisition), modernization and renovation projects, and capital equipment acquisition.

"(b) PURPOSES.—The loan guarantee program shall be designed by the Trust Fund Board with the goal of rebuilding and maintaining the essential health services of health care facilities eligible for assistance under this title.

"ELIGIBLE LOANS

"SEC. 2111. (a) IN GENERAL.—Loan guarantees under this subtitle are available for loans made to eligible health care facilities for replacement facilities (either newly constructed or acquired), modernization and renova-

tion of existing facilities, and for capital equipment acquisition.

"(b) LOAN GUARANTEE MUST BE ESSENTIAL TO BOND FINANCING.—Eligible health care facilities must demonstrate that a Federal loan guarantee is essential to obtaining bond financing from non-Federal lenders at a reasonably affordable rate of interest.

"(c) ADDITIONAL ELIGIBILITY CRITERIA FOR LOAN GUARANTEES.—In order to be eligible for assistance under this subtitle, a health care facility must demonstrate that the following criteria are met:

"(1) The health care facility has evidence of an ability to meet debt service.

"(2) The assistance, when considered with other resources available to the project, is necessary and will restore, improve, or maintain the financial or physical soundness of the health care facility.

"(3) The applicant agrees to assume the public service responsibilities described in section 2103.

"(4) The project is being, or will be, operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Trust Fund Board, and which includes—

"(A) a detailed maintenance schedule;

"(B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements;

"(C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Trust Fund Board;

"(D) a plan to improve financial and management control systems;

"(E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Trust Fund Board; and

"(F) such other requirements as the Trust Fund Board may determine.

"(5) The application includes stringent provisions for continued State or local support of the program, both with respect to operating and financial capital.

"(6) The terms, conditions, maturity, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulation, including a determination that the rate of interest

does not exceed such annual percentage on the principal obligation outstanding as the Trust Fund Board determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

"(7) The health care facility must meet such other additional criteria as the Secretary may impose.

"(e) STATE OR LOCAL PARTICIPATION.—Projects in which State or local governmental entities participate in the form of first guarantees of part or all of the total loan value shall be given a preference for loan guarantees under this subtitle.

"GUARANTEE ALLOTMENTS

"SEC. 2112. (a) IN GENERAL.—$150,000,000 shall be annually allocated within the Trust Fund to the loan guarantee program established by this subtitle in order to create a cumulative reserve in support of loan guarantees.

"(b) LOAN GUARANTEES FOR RURAL HEALTH CARE FACILITIES.—At least 20 percent of the dollar value of loan guarantees made under this program during any given year shall be allocated for eligible rural health care facilities, to the extent a sufficient number of applications are made by such health care facilities.

"(c) GUARANTEES FOR SMALL LOANS.—At least $200,000,000 of the annual dollar value of loan guarantees made under the program shall be reserved for loans of under $50,000,000, if there are a sufficient number of applicants for loans of that size.

"(d) SPECIAL RULE FOR REFINANCING LOANS.—Not more than 20 percent of the amount allocated each year to the loan guarantee program established by this subtitle may be allocated to guarantee refinancing loans during the year.

"TERMS AND CONDITIONS OF LOAN GUARANTEES

"SEC. 2113. (a) IN GENERAL.—The principal amount of the guaranteed loan, when added to any Federal grant assistance made under this title, may not exceed 95 percent of the total value of the project, including land.

"(b) GUARANTEES PROVIDED MAY NOT SUPPLANT OTHER FUNDS.—Guarantees provided under this subtitle may not be used to supplant other forms of State or local support.

"(c) RIGHT TO RECOVER FUNDS.—The United States shall be entitled to recover from any applicant health care facility the amount of payments made pursuant to any loan guarantee under this subtitle, unless the Trust Fund Board for good cause waives its right of recovery, and the United States shall, upon making any such payment pursuant to any such loan guarantee be sub-

rogated to all of the rights of the recipients of the payments.

"(d) MODIFICATION OF TERMS.—Loan guarantees made under this subtitle shall be subject to further terms and conditions as the Trust Fund Board determines to be necessary to assure that the purposes of this Act will be achieved, and any such terms and conditions may be modified by the Trust Fund Board to the extent that it determines such modifications to be consistent with the financial interest of the United States.

"(e) TERMS ARE INCONTESTABLE ABSENT FRAUD OR MISREPRESENTATION.—Any loan guarantee made by the Trust Fund Board pursuant to this subtitle shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or other person.

"PREMIUMS FOR LOAN GUARANTEES

"SEC. 2114. (a) IN GENERAL.—The Trust Fund Board shall determine a reasonable loan insurance premium which shall be charged for loan guarantees under this subtitle, taking into account the availability of the reserves created under section 2112. Premium charges shall be payable in cash to the Trust Fund Board, either in full upon issuance, or annually in advance. In addition to

the premium charge herein provided for, the Trust Fund Board is authorized to charge and collect such amount as it may deem reasonable for the appraisal of a property or project offered for insurance and for the inspection of such property or project.

"(b) PAYMENT IN ADVANCE.—In the event that the principal obligation of any loan accepted for insurance under this subtitle is paid in full prior to the maturity date, the Trust Fund Board is authorized in its discretion to require the payment by the borrower of an adjusted premium charge in such amount as the Board determines to be equitable, but not in excess of the aggregate amount of the premium charges that the health care facility would otherwise have been required to pay if the loan had continued to be insured until maturity date.

"(c) TRUST FUND BOARD MAY WAIVE PREMIUMS.—The Trust Fund Board may in its discretion partially or totally waive premiums charged for loan insurance under this section for financially distressed health care facilities (as described by the Secretary).

"PROCEDURES IN THE EVENT OF LOAN DEFAULT

"SEC. 2115. (a) IN GENERAL.—Failure of the borrower to make payments due under or provided by the terms of a loan accepted for insurance under this subtitle shall constitute a default.

"(b) ASSIGNMENT OF DEFAULTED LOANS.—If a default continues for 30 days, then, upon the lender's transfer to the Trust Fund Board of all its rights and interests arising under the defaulted loan or in connection with the loan transaction, the lender shall be entitled to debentures which, together with a certificate of claim, are equal in value to the amount the lender would have received if, on the date of transfer, the borrower had repaid the loan in full, together with the amount of necessary expenses incurred by the lender in connection with the default.

"(c) FORECLOSURE BY LENDER.—Subject to the approval of the Trust Fund Board, or as provided in regulations, the lender may foreclose on the property securing the defaulted loan.

"(d) FORECLOSURE BY TRUST FUND BOARD.—The Trust Fund Board is authorized to—

"(1) acquire possession of and title to any property securing a defaulted loan by voluntary conveyance in extinguishment of the indebtedness, or

"(2) institute proceedings for foreclosure on the property securing any such defaulted loan and prosecute such proceedings to conclusion.

"(e) HANDLING AND DISPOSAL OF PROPERTY; SETTLEMENT OF CLAIMS.—

"(1) PAYMENT FOR CERTAIN EXPENSES.—Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Trust Fund Board shall also have power, for the protection of the interests of the Trust Fund, to pay out of the Trust Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in its discretion, any property acquired by the Trust Fund under this section.

"(2) SETTLEMENT OF CLAIMS.—Notwithstanding any other provision of law, the Trust Fund Board shall also have the power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to the Trust Fund in connection with the assignment, transfer, and delivery provided for in this section, and at any time, upon default, to foreclose or refrain from foreclosing on any property secured by any defaulted loan assigned and transferred to or held by the Trust Fund.

"(3) LIMITATIONS ON AUTHORITY.—Subsections (a) and (b) shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000.

"(f) REGULATIONS.—The Trust Fund Board shall propose and the Secretary shall promulgate regulations governing procedures in the event of a default on a loan accepted for insurance under this subtitle.

"Subtitle C—Interest Rate Subsidies

"PROVISION OF INTEREST RATE SUBSIDIES

"SEC. 2121. (a) IN GENERAL.—The Secretary, with the approval of the Trust Fund Board, shall make available interest subsidies to reduce the cost of financing qualifying projects.

"(b) PURPOSES.—The interest subsidy program shall provide a partial Federal subsidy of debt service payment where State or local entities have demonstrated a significant commitment to financing health care facility replacement (either by construction or acquisition), modernization, and renovation projects by undertaking the issuance of bonds.

"ELIGIBLE LOANS

"SEC. 2122. (a) IN GENERAL.—Eligible health care facilities should have issued or plan to issue bonds for capital projects or be responsible for paying debt service on general obligation or revenue bonds issued on the eligible health care facility's behalf. To be eligible, bonds must have been issued after December 31, 1990.

"(b) NON-FEDERAL PARTICIPATION REQUIREMENT.—In order to be eligible for assistance under this subtitle, a health care facility must receive assistance from non-Federal sources in an amount not less than the amount of the assistance provided under this subtitle.

"ALLOTMENT OF SUBSIDIES

"SEC. 2123. (a) IN GENERAL.—The Trust Fund Board shall make available $220,000,000 in interest subsidies annually.

"(b) QUALIFYING NON-FEDERAL LOANS.—Interest subsidy grants will be made in the amount of 3 percent for qualifying non-Federal loans.

"(c) QUALIFYING FEDERAL LOANS MADE UNDER THIS TITLE.—Interest subsidy grants in an amount of up to 5 percent will be made for qualifying Federal loans made under this title if it is determined by the Trust Fund Board that the project would not be otherwise financially feasible.

"(d) RESERVE FOR RURAL HEALTH CARE FACILITIES.—At least 20 percent of the total value of all interest subsidies awarded in any given year shall be awarded to rural health care facilities, provided that a sufficient number of applications are approved.

"(e) LIMITATION ON AMOUNT OF SUBSIDIES AWARDED IN A GIVEN STATE.—The aggregate value of interest subsidies made to health care facilities in any State in a given year shall not exceed 25 percent of the total value of all interest subsidies made during that year.

"TERMS AND CONDITIONS FOR SUBSIDIES

"SEC. 2124. (a) STATE OR LOCAL PARTICIPATION.—No Federal subsidy shall be granted unless State or local participation in an amount equal to the Federal subsidy is provided.

"(b) ISSUANCE OF FEDERAL COMMITMENTS.—Successful applicants will receive a Federal commitment of an interest subsidy grant. Applicants will then have 12 months to finalize financing arrangements before unobligated funds would be returned to the subsidy program pool. A commitment, when issued, shall be valid for as long as a health care facility continues to meet the eligibility requirements of this title.

"SUBSIDIES FOR LOAN REFINANCING

"SEC. 2125. In addition to providing interest rate subsidies for new loans, the Trust Fund Board may pro-

vide subsidies to assist in refinancing if the health care facility presently lacks permanent financing at an affordable current market rate.

"Subtitle D—Direct Matching Loans

"PROVISION OF MATCHING LOANS TO HEALTH CARE FACILITIES

"SEC. 2131. (a) IN GENERAL.—The Secretary, with the approval of the Trust Fund Board, shall provide direct matching loans to eligible health care facilities unable otherwise to obtain essential financing.

"(b) PURPOSES.—The purpose of this subtitle is to provide eligible health care facilities with direct matching loans for essential health care facility replacement (either by construction or acquisition), modernization, and renovation projects. These loans are to be primarily provided for the funding of smaller projects where the transaction costs of securing financing from other sources may be disproportionately onerous in relationship to the amounts financed.

"ELIGIBLE PROJECTS

"SEC. 2132. (a) IN GENERAL.—Eligible applicants may seek a project loan of up to $50,000,000. Not more than 75 percent of the cost of the project may come from Federal sources.

"(b) EXCEPTION FOR FINANCIALLY DISTRESSED HEALTH CARE FACILITIES.—The Trust Fund Board shall have the discretion to waive the 25 percent match requirement for financially distressed health care facilities (as described by the Secretary).

"ALLOTMENT OF LOANS

"SEC. 2133. (a) IN GENERAL.—The Trust Fund Board shall make available $200,000,000 in direct matching loans annually. Funded projects should be divided between projects designed to achieve compliance with accreditation standards, life safety codes, and other certification standards, and those standards related to the provision of new services.

"(b) RESERVE FOR RURAL HEALTH CARE FACILITIES.—No less than 20 percent of the total value of loans made under the program shall be made to rural health care facilities, if there are a sufficient number of approved applications from such facilities.

"TERMS AND CONDITIONS OF LOANS

"SEC. 2134. (a) GENERAL TERM.—Loans will be made for a period equal to the construction period plus up to 39 years amortization.

"(b) INTEREST RATE.—The interest rate will be a market rate determined by the Trust Fund Board to be no higher than the most recent revenue bond index published by the Bond Buyer.

"USE OF LOANS FOR REFINANCING

"SEC. 2135. In addition to providing loans for new projects, the Trust Fund Board may grant loans under this subtitle to refinance existing loans if the health care facility has been unable to secure permanent financing at an affordable current market rate, except that the amount of assistance provided under this subtitle during a year for refinancing existing loans may not exceed 20 percent of the total amount made available for assistance under this subtitle for the year.

"CREATION OF REVOLVING FUND

"SEC. 2136. In addition to the new amounts made available each year, all loan repayments made by health care facilities shall be held in a revolving fund in the Trust Fund that may be used for additional loans.

"LOAN DEFAULT

"SEC. 2137. (a) IN GENERAL.—The failure of the borrower to make payment due under or provided by the terms of a loan granted under this subtitle shall be considered a default under such loan and, if such default continues for a period of 30 days, the Trust Fund Board may attempt to negotiate a revised repayment schedule to avoid foreclosing on property serviced by such loan before beginning collection proceedings against the borrower.

"(b) PRIORITY OF FEDERAL INTEREST.—In the case of default, the United States shall be paid prior to State or local bonds.

"Subtitle E—Grants for Urgent Capital Needs

"PROVISION OF GRANTS

"SEC. 2141. (a) IN GENERAL.—The Trust Fund Board shall make available $400,000,000 in direct grants annually. The Secretary, with the approval of the Trust Fund Board, shall make direct grants to eligible health care facilities with urgent capital needs.

"(b) PURPOSES.—Direct grants shall be available to eligible health care facilities for 3 types of projects:

"(1) Emergency certification and licensure grants would be available to eligible health care facilities that are threatened with closure or loss of accreditation or certification of a facility or of essential services as a result of life or safety code violations or similar facility or equipment failures. Such grants would provide limited funding for repair and renovation where failure to fund would disrupt the provision of essential public health services such as emergency care.

"(2) Emergency grants would be available for capital renovation, expansion, or replacement nec-

essary to the maintenance or expansion of essential safety and health services such as obstetrics, perinatal, emergency and trauma, primary care and preventive health services.

"(3) Planning grants would be available to eligible health care facilities who require pre-approval assistance to meet regulatory requirements related to management and finance in order to apply for loans, loan guarantees, and interest subsidies under this title.

"(c) PRIORITY TO FINANCIALLY DISTRESSED HEALTH CARE FACILITIES.—Priority for direct grants under this section would be given to financially distressed health care facilities (as described by the Secretary).

"(d) APPLICATION PROCESS.—The Secretary, with the approval of the Trust Fund Board, shall create an expedited application process for direct grants.

"ELIGIBLE PROJECTS

"SEC. 2142. (a) MATCHING GRANTS.—

"(1) LIMITATION ON AMOUNT.—Grants for capital expenditures by eligible health care facilities will be limited to $25,000,000.

"(2) MATCHING REQUIREMENT.—At least half of the projects funded in a year must receive at least 50 percent of their funding from State or local sources. The remaining projects funded during the

year could be financed up to 90 percent with a combination of Federal grants and loans.

"(3) RESERVATION FOR RURAL HEALTH CARE FACILITIES.—No less than 20 percent of the grant funds in any given year would be reserved for rural health care facilities, provided that a sufficient number of applications are approved.

"(b) PLANNING GRANTS.—Applicants who can demonstrate general qualification for the direct matching loan, loan guarantee, or interest subsidy programs under this title or eligibility for mortgage insurance under section 242 of the National Housing Act will be eligible for a grant of up to $500,000 to assist in implementation of key budgetary and financial systems as well as management and governance restructuring.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

SEC. 102. ADJUSTMENT TO PAYMENTS FOR CAPITAL-RELATED COSTS UNDER MEDICARE.

(a) IN GENERAL.—Section 1886(g)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) shall provide for adjustments to take into account the extent to which capital-related costs incurred by a hospital are costs with respect to which the hospital received financial assistance under title XXI.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 103. TAX EXEMPT STATUS OF FEDERALLY GUARANTEED STATE OR LOCAL BONDS.

(a) IN GENERAL.—Section 149(b)(3)(A) of the Internal Revenue Code of 1986 is amended—

(1) in clause (ii) by striking "or";

(2) in clause (iii) by striking the period and inserting ", or"; and

(3) by adding at the end thereof the following:

"(iv) any guarantee by the Health Safety Net Infrastructure Trust Fund pursuant to title XXI of the Social Security Act.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993.

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